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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/088,428

03/15/2002

Holger Muller

SPM-342-A

9127

7590

03/25/2004

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EXAMINER

ROSENBERGER, RICHARD A

ART UNIT

PAPER NUMBER

2877

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/088,428

**Applicant(s)**

MULLER ET AL.

**Examiner**

Richard A Rosenberg

**Art Unit**

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/5/02</u> . | 6) <input type="checkbox"/> Other: ____  |

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over WWU (DE 298 02 972) in view of Karpf et al (WO 90/13663), McAndrew et al (US 5,880,850), Pinvidic et al (US 6,157,455) and McCaul et al (US 5,625,189).

WWU shows in figure 4 a method and device for gas analysis in a sample atmosphere with a measuring chamber, a light source (shown at the bottom of the chamber) and detector (shown at the top of the chamber) to produce a measuring light beam that passes at least once through the chamber. The arrangement seals the vessel holding the atmosphere to be tested and the gas from the sealed vessel enters the measuring chamber through diffusion. The use of known light sources and detectors appropriate for the measurement at hand would have been obvious.

Similarly figure 4 of Karpf et al shows a measuring chamber arranged to allow gas from a sealed vessel to enter the measuring chamber through diffusion. It would have been obvious to use the diffusion arrangement of Karpf with a measuring arrangement similar to that of WWU in which the light passes at least once through the measuring chamber because this is, as shown by WWU, a known manner of making measurements of the gas in

a measuring chamber. The measuring system of Karpf penetrates a seal of the vessel with a cannula.

It is known that reflectors can be arranged to reflect the measuring light within the measuring path to increase the path length and make the arrangement more compact or convenient; see McAndrew, which shows a measuring light path reflected once, and Pinvidic et al which shows an arrangement in which the light is reflected twice. The known use of means such as fibers to direct light in such a system would have been obvious.

Although WWU shows a stopper, other arrangements of sealing vessels, such as screw threads and snap-on arrangements, are known and it would have been obvious to use such known sealing means with a measurement system such as shown by WWU.

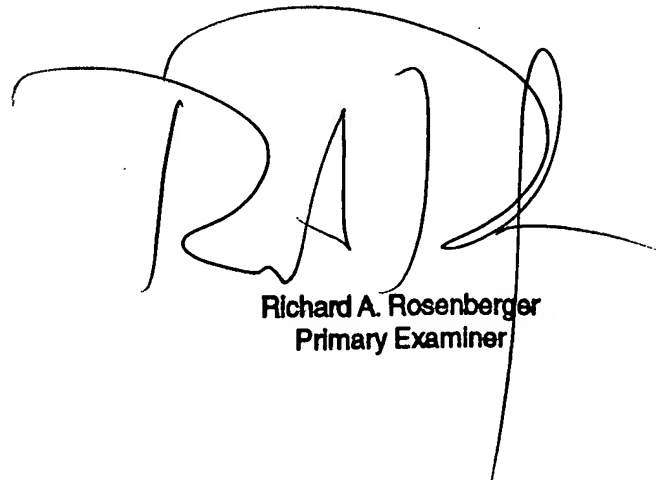
McCaul et al teaches that the measuring chamber, or parts thereof, can be heated to avoid unwanted condensation (column 21, lines 29-31); such heating whenever there is the risk of unwanted condensation would have been obvious.

3. Papers related to this application may be submitted to Group 2800 by facsimile transmission. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (15 November 1989). The fax number is (703) 872-9306

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. A. Rosenberger whose telephone number is (571) 272-2428.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

R. A. Rosenberger  
8 March 2004



Richard A. Rosenberger  
Primary Examiner